

420 KAR 1:050. Tier II water use fees.

RELATES TO: KRS 151.100-151.600, 151.700-151.730, 151.990, 223.400-223.460, 224.70, 224.73

STATUTORY AUTHORITY: KRS 151.710, 151.720, 151.725, 151.730

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151.700 through 151.730 authorize the Kentucky River Authority to manage the surface water and groundwater of the Kentucky River basin. The authority has the power and duty to develop and to implement programs relating to the locks and dams on the Kentucky River; to acquire, to sell and to lease property; to develop recreational areas; to issue revenue bonds; to assess fees for water use; to contract for services; to adopt administrative regulations protecting water in the Kentucky River basin; to develop and to implement comprehensive plans for protecting the water of the Kentucky River basin; and to collaborate with the Natural Resources and Environmental Protection Cabinet and other state agencies in coordinating Kentucky River basin water resource and water quality activities. This administrative regulation establishes Tier II water use fees.

Section 1. Purpose. This administrative regulation establishes Tier II fees and incidental charges for the withdrawal of surface water from the main stem of the Kentucky River.

Section 2. Persons Required to Pay Tier II Fees. The persons identified in this section of this administrative regulation shall pay to the authority the Tier II fees and incidental charges established by this administrative regulation, unless exempted by Section 3 of this administrative regulation.

(1) A person who withdraws surface water from the mainstem of the Kentucky River downstream of lock and dam 14 for noncontact cooling water shall pay a Tier II fee based on net withdrawal, which shall be 150 percent of the Tier II fee for gross withdrawal.

(2) Unless entitled to a fee based on net withdrawal in accordance with subsection (1) of this section, a person who withdraws surface water from the main stem of the Kentucky River downstream of lock and dam 14 shall pay a Tier II fee based on gross withdrawal.

Section 3. Persons Exempted from Paying Tier II Fees. The following persons are exempted from paying the Tier II fees and incidental charges established by this administrative regulation:

(1) A person who withdraws surface water from the main stem of the Kentucky River downstream of lock and dam 14 primarily for agricultural use; and

(2) A person whose gross withdrawal of surface water from the main stem of the Kentucky River downstream of lock and dam 14 is less than 10,000 gallons per day.

Section 4. Tier II Fee Rates. (1) The Tier II fee for gross withdrawal shall be \$0.016 per 1000 gallons and any portion thereof, from the effective date of this administrative regulation through retirement of any revenue bond for which the Tier II fee provides debt service.

(2) The Tier II fee for net withdrawal shall be \$0.016 per 1000 gallons and any portion thereof, multiplied by one and five-tenths (1.5), from the effective date of this administrative regulation through retirement of any revenue bond for which the Tier II fee provides debt service.

(3) The Tier II fees may be amended as necessary to fund the Tier II projects budgeted by the authority. The authority shall submit to the General Assembly with its budget request a fee structure necessary to fund those Tier II projects. The authority shall set the amended fees based on the approved budget.

(4) Charges incidental to Tier II fees. The authority may assess a person required to pay a Tier II fee the following charges incidental to collection of that fee:

(a) A deposit of up to three (3) months estimated billings, except for bills of local governments,

with interest to accrue at six (6) percent per annum and the deposit to be returned in a year if prior payments were timely;

(b) A late payment charge of up to five (5) percent of the last quarter's bill for payments that are twenty (20) days late or, for local governments, more than ten (10) days after the last regular meeting of local government, whichever is later;

(c) A returned check charge of fifteen (15) dollars; and

(d) A field collection charge, with a minimum charge of fifty (50) dollars and a maximum charge of \$500.

Section 5. Collection of Fees. (1) A person required by this administrative regulation to pay a Tier II fee shall pay that fee quarterly and shall pay charges incidental to that fee upon the authority's request. Payment shall be made within ten (10) days of receipt of a bill from the authority.

(2) Fees and incidental charges shall be paid by check or money order, made payable to the Kentucky State Treasurer. The authority may require a check to be certified if a previous check to the authority was returned for insufficient funds.

(3) A person paying a Tier II fee for gross or net withdrawal shall complete and submit to the authority the water withdrawal reporting form incorporated by reference in Section 6 of this administrative regulation, identifying the number of gallons withdrawn during that quarter. A person paying a Tier II fee for net withdrawal shall also complete and submit to the authority the water discharge reporting form incorporated by reference in Section 7 of this administrative regulation, identifying the number of gallons discharged. The water withdrawal and discharge reporting forms shall be submitted within fifteen (15) calendar days after the end of the quarter. A person paying a Tier II fee may use the water withdrawal reporting form required by KRS 151.160 and 401 KAR 4:010 in lieu of the water withdrawal reporting form incorporated by reference in Section 6 of this administrative regulation.

Section 6. Incorporation by Reference of Water Withdrawal Reporting Form. The document entitled "Water Withdrawal Reporting Form" is hereby incorporated by reference. The effective date shall be the effective date of this administrative regulation. It is available for public inspection and copying, subject to copyright law, at the office of the Kentucky River Authority, 107 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays.

Section 7. Incorporation by Reference of Water Discharge Reporting Form. The document entitled "Water Discharge Reporting Form" is hereby incorporated by reference. The effective date shall be the effective date of this administrative regulation. It is available for public inspection and copying, subject to copyright law, at the office of the Kentucky River Authority, 107 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays. (20 Ky.R. 883; Am. 1622; eff. 12-17-93; Crt eff. 2-5-2020.)